

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4359 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and

MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

AHMEDABAD MUNICIPAL CORPN

Versus

STATE BANK OF SAURASHTRA

Appearance:

MR JR NANAVATI AND AR THAKKER for Petitioner

MR RJ OZA for Respondent-State Bank of Saurashtra

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 06/04/99

ORAL JUDGEMENT

Heard learned counsel for the parties.

2. This Special Civil Application is directed

against the order dated 20th January, 1983 passed in M.V.Appeal No.2606 of 1980 (B.P.M.C. Act) by the Small Causes Court at Ahmedabad.

3. The premises in question are held by the State Bank of Saurashtra, Shahibaug, Ahmedabad in Dhariapur Kajipur Revenue Ward No.3 bearing survey Nos.424/1 and 424/2 for a monthly rent of Rs.1100/- from 13th November, 1976. The Municipal Corporation assessed the gross ratable value of the aforesaid premises at Rs.8,917/- for each of the premises for the year 1979-80 on the basis of the contractual rent of Rs.1100/- per month. The State Bank of Saurashtra preferred M.V.Appeal under sec.406 of the BPMC Act being M.V.Appeal No.2606 of 1980 in the Court of Chief Judge, Small Causes Court at Ahmedabad and same was decided on 20th January, 1983 fixing the gross ratable value at Rs.1152/-and in respect of survey No.424/1 in Dhariapur Kajipur Ward and again Rs.1152/- in respect of survey No.424/2 for the year 1979-80. Aggrieved from this order dated 20th January, 1983, Municipal Corporation of the City of Ahmedabad has preferred the present Special Civil Application.

4. It appears from the impugned order dated 20th January, 1983 that the Small Causes Court has noticed that the bank was a tenant in two premises and each premise consists of one room only. It has been then held that each room is small with the area of 320 sq.ft. and both the rooms are situated on the ground floor of a residential bungalow in Shahibaug Co-operative Housing Society which is not a commercial zone and the same are in the residential locality. While it is the common case of the parties that the bank, i.e. the respondent has never applied for standardization of the rent and no grievance was raised that the contractual rent which was being paid was unreasonable or excessive. The Small Causes Court itself has referred to the Ahmedabad District Co-operative Bank's Kankaria Branch situated in a premises in the Co-operative Housing Society near Kankaria lake. The standard rent which was got fixed by the Kankaria branch of the aforesaid bank at the rate of 25 ps. per sq.ft. in the judgment given on 15-2-1982 in First Appeal No.1503 of 1981 was accepted and on that basis the reference was also made to a decision of the High Court that the High Court has also endorsed it for the purpose of fixing the standard rent in respect of the premises pertaining to the Kankaria Branch of the Ahmedabad District Co-operative Bank. The Small Causes Court itself has noticed that the only difference was that the former was the case near Kankaria lake while the premise in question in this case was in Shahibaug and on

that basis, the reasonable rent was fixed at Rs.30/- per sq.ft. for the areas of each room and on that basis, rent was calculated to be Rs.96/- and the rateable value with regard to each of the two premises was fixed at Rs.1152/and accordingly gross rateable value assessed by the Municipal Corporation at Rs.8917/-was reduced to Rs.2304/- (Rs.1152 x 2) in all.

5. Having heard learned counsel and having gone through the impugned order, we find that the Small Causes Court has applied the standard rent which was fixed with regard to some other area which is not even in proximity with the premises in question. The premises in question are situated at Shahibaug whereas the standard rent was fixed with regard to branch of some Ahmedabad District Co-operative Bank situated in Kankaria. In any case, unless and until it was pleaded or proved that the rent which was being paid by the respondent at the rate of Rs.1100/-per month for the premises in question was excessive, the gross rateable value as assessed by the Municipal Corporation could not be reduced by invoking the standard rent which was got fixed by some other bank in some other area. The reference which has been made to the High Court was only to the extent that High Court had only directed for standardization.

6. Merely because the standard rent which has been fixed in some other case was relied upon by the High Court in some other cases, it could hardly be the basis for the purpose of reducing the gross rateable value as has been assessed by the Municipal Corporation. In our opinion, the assessment fixed with regard to the gross rateable value of the Municipal Corporation has been interfered with by the appellate authority for no lawful justification and for no valid reason. The impugned order dated 20th January, 1983 cannot be sustained in the eye of law. This Special Civil Application, therefore, succeeds. The impugned order dated 20th January, 1983 passed in M.V.Appeal No.2606 of 1980 by the Chief Judge, Small Causes Court, Ahmedabad is hereby quashed and set aside and the assessment which has been made by the Corporation is restored. This Special Civil Application is allowed. Rule is made absolute accordingly. No order as to costs.

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